

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

FRANKY GONZÁLEZ RIVERA,

Plaintiffs,

v.

PRESBYTERIAN COMMUNITY HOSPITAL, INC.,
FULANOS DE TAL 1-100,

Defendants.

Civil Action No. 22-cv- (1351)

NOTICE OF REMOVAL

TO THE HONORABLE COURT:

Presbyterian Community Hospital, Inc. (the “Hospital”), hereby removes the entire above-captioned action from the Court of First Instance, San Juan Part, Commonwealth of Puerto Rico (“CFI”), case number SJ2022CV04285, to this Court, and states as follows:

I. BACKGROUND

1. On May 24, 2022, this action was commenced when plaintiff, Mr. Franky González Rivera (“Mr. González-Rivera” or “Plaintiff”) filed in the CFI a complaint against defendant Hospital.

2. Plaintiff, who alleges being physically disabled, claims being subject of continued discrimination by the Hospital, for having architecture barriers in its facilities, buildings, structures, property and land, which obstruct the pacific enjoyment of the public accommodation.

3. Plaintiff seek injunctive and declaratory relief, damages, and statutory attorney’s fees and costs against the Hospital, per 42 USC § 12205 and 28 CFR § 36.505.

4. The Hospital was served with process on June 23, 2022 with a copy of the Complaint and the Summons.

II. BASIS FOR REMOVAL

5. This action is a civil action over which this Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1343 (a)(3) and (a)(4), for presenting a claim which arises under the laws of the United States.

6. Plaintiffs' claim is based on the provisions of Title III of the American with Disabilities Act, 42 USC § 12181, *et seq.* ("ADA") and the Rehabilitation Act of 1973, 29 USC § 701 *et seq.* ("Rehabilitation Act").

7. Thus, pursuant to §§1441 and 1446 of Title 28 of the U.S.C., the Hospital removes the complaint from the CFI to this Court for it has original jurisdiction since it presents a Federal Question.

8. In addition, this notice of removal is being timely filed in compliance with all applicable procedures.

9. Venue properly lies with this Court pursuant to 28 U.S.C. §§ 1442(a) and 1446(a), as this action is being actively litigated in the CFI which is located in the District of Puerto Rico.

III. COPIES OF ALL PLEADINGS, PROCESS AND ORDERS

10. A copy of all pleadings, process and orders filed or issued in connection with this action and which the Hospital has in its possession are attached hereto as required by 28 U.S.C. § 1446(a). *See Exhibit A.* As most of the documents are in the Spanish language, however, the Hospital is filing contemporaneously herewith a separate motion requesting a 45-day extension of time to submit certified translations of such documents. If granted, the certified translations will be submitted to the Court on or before September 6, 2022.

11. Pursuant to 28 U.S.C. § 1446(d), the Hospital will promptly file in the CFI, and serve on all parties to this action, a copy of this Notice of Removal.

12. This removal should not be viewed as a waiver of an affirmative defenses available to the Hospital, which in this filing does not admit nor deny any of the allegations contained in the Complaint.

In San Juan, Puerto Rico, this 22nd day of July 2022.

I HEREBY CERTIFY, that on this date I filed the foregoing with the Clerk of the Court using the CFM/ECF system. Notice of filing will be sent via certified mail or email to Plaintiff through his attorney Jose C. Vélez Colón 421 Muñoz Rivera Ave., # 205, San Juan, Puerto Rico 00918-3115 and vlg@velezlawgroup.com.

SÁNCHEZ-BETANCES,
SIFRE & MUÑOZ-NOYA LLC
Attorneys for the Hospital
33 Calle Bolivia, Suite 500
San Juan, Puerto Rico 00917
T. 787.756.7880
F. 787.753.6580
E. sergio@sbsmnlaw.com

s/ Sergio Sánchez-Pagán
USDC-PR No. 224402